



[4310-4J]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

[BY - /AM65P0002.99900/]

Tribal Consultation on the Draft Regulations Governing the Tribal Transportation Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal Consultations and Informational Meetings.

SUMMARY: The Bureau of Indian Affairs is announcing tribal consultations to discuss draft revisions of the regulations governing the Tribal Transportation Program. The consultations will also cover requirements for proposed roads and access roads to be included in the National Tribal Transportation Facility Inventory and will include an update regarding the ongoing quality assurance review of the facility inventory.

DATES: Comments on the draft rule are due by June 14, 2013. The consultation sessions will be held on the following dates, at the following locations:

Meeting date	Location	Time
May 14, 2013	Anchorage, AK	9 a.m. – 4:30 p.m.
May 16, 2013	Phoenix, AZ	9 a.m. – 4:30 p.m.
May 21, 2013	Minneapolis, MN	9 a.m. – 4:30 p.m.

ADDRESSES:

- Send comments to: LeRoy M. Gishi, Chief, Division of Transportation, Bureau of Indian Affairs, 1849 C Street, NW., MS-4513, Washington, DC 20240, telephone

(202) 513-7711, email: leroy.gishi@bia.gov; or Robert W. Sparrow, Jr., Director, Tribal Transportation Program, Federal Highway Administration, 1200 New Jersey Ave, SE., Room E61-311, Washington, DC 20159, telephone (202) 366-9483, email: robert.sparrow@dot.gov.

- Addresses of the venues at which each meeting will be held, a copy of the draft regulation, and background information are posted at the following Web site (the address is case-sensitive, please use capitals where indicated):

<http://www.bia.gov/WhoWeAre/BIA/OIS/Transportation>

FOR FURTHER INFORMATION CONTACT: LeRoy M. Gishi, telephone (202) 513-7711; email: leroy.gishi@bia.gov; or Robert W. Sparrow, Jr., telephone (202) 366-9483; email: robert.sparrow@dot.gov.

SUPPLEMENTARY INFORMATION: Federally recognized tribes are invited to attend one or more of the consultation and informational sessions regarding the following topics:

- On July 6, 2012, Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, a two-year reauthorization of the transportation act, was signed into law by President Obama and became effective on October 1, 2012.
- Section 1119 of MAP-21 struck the existing laws governing the Indian Reservation Roads Program from 23 U.S.C. 201-204, and renumbered many of those sections under 23 U.S.C. 201 and 202 and changed the name from “Indian Reservation Roads Program” to “Tribal Transportation Program (TTP).” MAP-21 also changed the name of the “Indian Reservation Roads Inventory” to the “National Tribal Transportation Program Facility Inventory (NTTFI).” See 23

U.S.C. 202(b)(1). Section 1103 of MAP-21 amended the name of an “Indian Reservation Road” to a “Tribal Transportation Facility.”

- Section 1119 of MAP-21 created a new formula for distribution of TTP funds among tribes, which had the effect of overriding the existing Relative Need Distribution Formula (RNDF) that was published in 2004 at 25 CFR part 170, Subpart C. *See* 23 U.S.C. 202(b)(3). Although the RNDF is no longer applicable under the new TTP formula, certain historical aspects of the former RNDF continue to be relevant in the new TTP formula.
- Section 1119 of MAP-21 also made other miscellaneous changes to the remainder of the laws governing the TTP that require BIA to make changes to 25 CFR part 170.
- The current 25 CFR part 170 was published in 2004 (69 Federal Register 43090, July 19, 2004). Congress later enacted the Safe, Accountable, Flexible and Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), Pub. L. 100-59 (August 10, 2005). Certain provisions of 25 CFR part 170 were amended as a result of the enactment of SAFETEA-LU but the regulation was not revised at that time. MAP-21 effectively amends or renders obsolete parts of 25 CFR part 170 so the BIA must revise the regulation to bring it into compliance with MAP-21.
- There have been significant changes in the way the TTP is delivered to tribes since 25 CFR part 170 was published in 2004 and the Bureau of Indian Affairs (BIA) needs to update the regulations to reflect certain aspects of the changes.

- Tribes, BIA, and FHWA have identified the lack of requirements for proposed and access roads to be added to or remain in the NTTFI as an area of concern in the current regulation for many years. Proposed roads are currently defined by 25 CFR 170.5 as “a road which does not currently exist and needs to be constructed.” A primary access route is the shortest practicable route connecting two points, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings. *See* 23 U.S.C. 202(b)(1). During 2012, BIA and FHWA conducted thirteen tribal consultation meetings throughout the country on a joint BIA and FHWA recommendation for changing how Proposed Roads and Access Roads would contribute to the RNDP for Indian Reservation Roads Program funds. *See* 25 CFR part 170, Subpart C. Although MAP-21 replaces the RNDP as discussed above, BIA needs to codify the requirements that Proposed Roads or Access Roads must meet in order to be added to or remain in the NTTFI.
- Apart from the consultations, BIA and FHWA will provide an update regarding the ongoing NTTFI quality assurance review. After consulting with tribes in 2010, BIA and FHWA began the process of implementing a comprehensive quality assurance review of the NTTFI to be compatible with the Federal-aid highways functional classification system. During the review, it was determined that some transportation facilities in the NTTFI were missing data, incorrectly classified data, and contained other technical errors. The update will discuss the

status and results to date of the quality assurance review, as well as seek additional input regarding ways to continue improving the accuracy of the NTTFI.

BIA plans to schedule further consultations at different or additional locations after a Notice of Proposed Rulemaking is published in the Federal Register.

Meeting Agenda for May 14, 16, and 21, 2013 (all times local)

Time	Topic
9 a.m. - 9:15 a.m.	Welcome and Introductions
9:15 a.m. – 9:30 a.m.	Brief history of 25 CFR part 170 and process for updating the regulation
9:30 a.m. – 10 a.m.	MAP-21 and its impacts on 25 CFR part 170
10 a.m. – 10:15 a.m.	Break
10:15 a.m. – 11:45 a.m.	Discussion of updates to 25 CFR part 170
11:45 a.m. – 1 p.m.	Break
1 p.m. – 3 p.m.	Continue discussion of updates to 25 CFR part 170
3:15 p.m. – 4 p.m.	Update regarding National Tribal Transportation Facilities Inventory (NTTFI) quality assurance review
4 p.m. - 4:30 p.m.	Closing Comments
4:30 p.m.	Adjourn

Dated: April 9, 2013

Kevin Washburn
Assistant Secretary - Indian Affairs

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